

# HOUSE BILL REPORT

## ESHB 1397

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### As Passed Legislature

**Title:** An act relating to vehicle emission standards.

**Brief Description:** Changing vehicle emission standards provisions.

**Sponsors:** By House Committee on Transportation (originally sponsored by Representatives Murray, Jarrett, Morris, B. Sullivan, Anderson, Appleton, Wallace, P. Sullivan, Kenney, Campbell, Rodne, Hunt, Priest, Springer, Tom, Lovick, Quall, Pettigrew, Kirby, Clibborn, Kilmer, Dunshee, Dickerson, Ericks, Green, Sells, Hasegawa, Upthegrove, Williams, Moeller, McIntire, Chase, Simpson, McDermott, Hudgins and Wood).

### Brief History:

#### Committee Activity:

Transportation: 2/17/05, 2/22/05 [DPS].

#### Floor Activity:

Passed House: 3/16/05, 53-42.

Senate Amended.

Passed Senate: 4/13/05, 29-19.

House Concurred.

Passed House: 4/20/05, 55-42.

Passed Legislature.

### Brief Summary of Engrossed Substitute Bill

- Adopts the California vehicle emissions standards, without the zero emission vehicle regulations..
- The rules will be effective only for those model years for which Oregon has adopted the emissions standards.
- Independent repair shops may be certified to perform warranty service and must be compensated for that work at the same rate as franchised dealers.
- Broadens the diesel school bus retrofit program to include other publicly owned diesel equipment.
- Vehicle emissions testing may be done by authorized auto dealers and repair shops beginning in 2012. The vehicle emissions testing program expires in 2020.

## HOUSE COMMITTEE ON TRANSPORTATION

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 17 members: Representatives Murray, Chair; Wallace, Vice Chair; Appleton, Campbell, Dickerson, Flannigan, Hudgins, Jarrett, Kilmer, Lovick, Rodne, Sells, Simpson, B. Sullivan, Takko, Upthegrove and Wood.

**Minority Report:** Do not pass. Signed by 7 members: Representatives Woods, Ranking Minority Member; Buck, Curtis, Hankins, Nixon, Schindler and Shabro.

**Staff:** Beth Redfield (786-7347).

### **Background:**

Under the federal Clean Air Act, the states have the option to implement either federal motor vehicle emission standards or California motor vehicle emissions standards for passenger cars, light duty trucks and medium duty passenger vehicles.

The Washington State Clean Air Act amendments passed in 1991 require engine manufacturers to conform with the exhaust emission standards of the federal Environmental Protection Agency (EPA). They also prohibit the Department of Ecology (DOE) from adopting the California vehicle emissions standards unless authorized by the Legislature.

California's current low emission vehicle standards (called "LEV II") are being phased in over the 2004 through 2010 model years. The program reduces nitrogen oxides and hydrocarbons. The rules require that 90 percent of new cars and light duty trucks meet low emission standards and 10 percent of vehicles meet zero emission standards. Manufacturers may receive partial credits toward meeting the zero emissions requirements through the production of partial zero emission vehicles (PZEVs).

In 2002, the California Legislature approved Assembly Bill 1493 (Rep. Pavley) which would extend emissions controls to greenhouse gases, beginning with the 2009 model year. The California Air Resources Board has submitted proposed implementing rules to the 2005 California Legislature for approval. These changes have not yet been approved by the EPA and are under litigation in California.

Until 2008, certain certificate of ownership fees must be distributed to three accounts as follows: 58.12 percent to an Air Pollution Control sub-account, 15.71 percent to the Vessel Response Account, and 26.17 percent to the Transportation 2003 (Nickel) Account. Beginning on July 1, 2008, all of these fees will be deposited in the Transportation 2003 (Nickel) Account.

A portion of the money in the air pollution control sub-account has been appropriated to the DOE to retrofit school buses with exhaust emission control devices as well as fueling infrastructure necessary to allow school bus fleets to use alternative, cleaner fuels.

State law requires the DOE to administer a program to test vehicle emissions in those areas that violate or are likely to violate federal air quality standards. Currently, vehicle emission

tests are required in the urban areas of Clark, King, Pierce, Snohomish and Spokane counties. Motor vehicles in these areas must be inspected every two years. Vehicles which are 25 years or older are exempt from emissions testing. The inspection stations are operated under contract with the DOE. No person contracted to inspect motor vehicles may perform repairs for compensation.

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**Summary of Engrossed Substitute Bill:**

The Legislature adopts the California motor vehicle emission standards, excluding zero emission vehicle program regulations, in effect on January 1, 2005. The rules will only be effective for those model years for which Oregon has adopted the California vehicle emission standards.

Beginning with the first applicable model year, no vehicle will be registered, leased, rented, or sold for use in the state unless the vehicle: (1) (a) is consistent with the vehicle emission standards as adopted by the DOE; (b) is consistent with the carbon dioxide equivalent emission standards as adopted by the DOE; and (c) has a California certification label for (i) all emission standards, and (ii) carbon dioxide equivalent emission standards necessary to meet fleet average requirements; or (2) has 7,500 miles or more. Starting with the first applicable model year, new vehicles are exempt from emission inspections.

The Department of Licensing and the DOE are granted rulemaking authority, and may provide for reasonable exemptions to those requirements. In particular, the DOE may exempt public safety vehicles if DOE finds that public safety vehicles are not reasonably available. For final adoption of the rules, the order of adoption must include the Governor's signature.

In its rulemaking, the Department of Ecology may provide for a system of awarding partial credits toward zero emission vehicle requirements. In addition, these credits will be awarded for partial zero emissions vehicles produced and sold prior to the first applicable model year. At the choice of the manufacturers, the early credits may reflect the Washington market, recognizing that there may be more early sales of partial zero emission vehicles in Washington.

Independent repair shops may be certified to perform warranty service. Manufacturers must compensate independent repair shops at the same rates as franchised dealers for covered warranty services.

In order to prevent tampering with odometers to avoid compliance with the new emissions standards, the bill makes it a gross misdemeanor to turn forward the odometer of any vehicle.

The Office of Financial Management, in conjunction with the Departments of Licensing, Revenue, and Ecology, must report annually on the availability of vehicles meeting the standards, the progress of automobile industries in meeting the requirements, and other relevant matters to the success of the industry in implementing these requirements.

Two 1991 statutes are repealed: (1) requiring engine manufacturers to certify that new engines conform with current exhaust emission standards of the EPA; and (2) prohibiting the DOE from adopting the California vehicle emission standards.

Monies formerly dedicated to school buses would also be used for other publicly-owned diesel equipment upon a finding of a public health benefit. The remaining monies may be used to reduce any transportation-related air contaminant emissions in addition to the other uses.

Beginning in 2012, the DOE may authorize businesses other than the emissions inspection contractor to conduct emission inspections. Authorized businesses may also perform repairs on any vehicles. The emission inspections program terminates in 2020.

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**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date:** The bill contains an emergency clause and takes effect immediately, except Sections 4, 5, and 9 relating to the Air Pollution Control Account, which takes effective July 1, 2005.

**Testimony For:** The bill is the product of a collaborative stakeholder process that brought together diverse interests including prominent businesses, civic groups and local governments. Clean car standards were a top priority of the group. The first reason is that clean car standards produced the largest economic benefits: over \$2 billion in benefits statewide by 2020. The net benefit to a car purchaser is \$2,000 over the life of the vehicle. If the car is financed, there is a net savings of \$11 per month while paying off the car, and the owner saves \$18 per month after the car is paid off. The second reason is that the clean car standard delivers the largest environmental benefits, including major reductions in cancer causing air toxics and global warming pollutants. Motor vehicles are more than half the problem. Will auto makers do their fair share or will local businesses bear the entire responsibility? The third reason is that clean car standards reduce our dependence on petroleum. There is a growing consensus that we are too dependent on petroleum, hurting the environment, the economy and national security. This is the single largest step a state can take to do something about this compelling public policy problem. Finally, it is time to deliver on better vehicle technology that we know auto engineers can deliver. Cost estimates by lobbyists for manufacturers have historically been two to 10 times higher than delivered technology.

In a given year, the transportation system is responsible for 50 million metric tons of pollutants. The people of the state believe that cars can be compatible with clean air. The federal government has chosen not to do this, so it falls to the states and California has been the leader. At first, two states adopted the California standards, then four, then eight, and with Washington there will be nine. Soon, a critical mass will be established and the progress we want for vehicles will be made.

The legislation fits with promoting quality of life and clean air as an economic driver. It also fits with the ability to accommodate future growth. It allows economic growth while maintaining our air resources. Many Washington cities will send in resolutions in support of the bill. Seattle will be buying these cars. Seattle has over 3,000 cars in its fleet. If clean cars are available, we will buy them. Our airshed has only so much room. With more cars and trucks on the road, we will lose our status as a liveable region. A key limit on economic growth is air quality. Although currently meeting standards, ability to handle growth without exceeding attainment levels will be difficult. Exceeding the limits will bring new requirements from the federal government.

Cleaner requirements will be an impetus to new technology. Washington has a strong technology base, so we should live up to this potential.

One in 10 children living in Seattle and Spokane has asthma. That is nearly double the national average for asthma. There is a clear correlation between spikes in pollutant levels and the incidence of asthma attacks in doctors' offices, emergency rooms and hospitals. These pollutants are primarily generated by internal combustion auto and truck engines. Clean car standards reduce fine particulates and ozone, both common contributors to health problems. Lung cancer risk is also reduced due to lower benzene exposure. Benzene is a known carcinogen and 50 percent of benzene comes from cars and light trucks. Clean car states have seen a 25 percent reduction in benzene and formaldehyde levels.

In classrooms, it used to be typical for student health alerts for diabetes and bee stings. Now, health alerts have quintupled and they are overwhelmingly due to asthma.

Proponents have sought to address dealer concerns. Dealers have received assurance that customers will continue to have access to high-volume, hot-selling cars. You will hear scare messages from manufacturers. The same arguments were made against airbags, five mile per hour bumpers, and previous emissions standards.

Diesel cars will be allowed. Work and farm trucks are exempt. The California Legislature required a full range of availability of models. Military personnel can bring vehicles in. In California, car buyers get a 15 year/150,000 mile warranty. There is no loss in performance. Cars will look just like they do today. California estimates the price will increase by \$300 early on and \$1,000 later in implementation.

The objective of the new standards is lower greenhouse gas emissions; it just happens that fuel efficiency is also improved and that puts money back in people's pockets. Washington will not be buying into a lawsuit. The case is being fought in federal court in California.

The bill will allow Washington to phase out the emissions testing program. The rules will be relatively easy to adopt because Washington is just adopting what's already been done. We can do this with low administrative costs, only three FTEs are needed to administer the program.

This will reduce gas tax revenue, but we knew that was coming anyway. We must get used to the fact that cleaner cars do not mean cheaper roads. We will have to adjust and pay for roads in a different way. It will be an issue in every state and for the country as a whole.

**Testimony Against:** First, this is not about cleaner cars; this is about what kind of regulatory structure you want and which standards you want to govern pollution levels. The manufacturers are building cars as clean as you can build cars. Ninety-nine percent of the pollution is taken out. The federal standards for pollution controls and the California standards will bring us no difference in air quality in this state. This bill would bring prescriptive requirements in terms of vehicles distributed into the consumer stream. It also means we would adopt very controversial greenhouse gas rules. This is simply an effort to regulate fuel economy. That is why there is a lawsuit in California. You have heard people say that we would be the eighth state to adopt these standards. We would be the first state to adopt standards that include greenhouse gas standards. Manufacturers estimate a cost increase of \$3,000 for meeting greenhouse gas standards. The California estimates are off to a great degree. California assumed that technologies used in various makes and models of cars could be combined in a single car and it would work. It is not that simple. We don't know how we'll meet the greenhouse gas standards. We do know we'll need to double mileage in the time given.

There will be loss of choice in vehicles, especially in Washington State where there is higher demand for trucks. This effects choices for farmers, contractors, and people with large families.

The bill will also bring a new regulatory structure. Washington State will have to assign people to work with manufacturers to make sure they are bringing in the right kinds of vehicles and making them available to consumers. On an ongoing basis, the state will have to work with manufacturers to help us figure out how to comply. These rules have been troublesome; they have been changed 49 times since 1990. They told us to make electric vehicles. No one bought them; we had to give them away. In order to make the very prescriptive elements of standards work, California had to develop a system of credits. The question is open, whether Washington would also adopt the credits or would develop a new system? For those of us concerned about funding for transportation projects, we would prefer to use public money for transportation projects and not for a new bureaucracy.

These are extraordinarily complex regulations. Washington has the distinguished status of being in attainment for health based standards. The industry applauds that. There is good news under the current federal program. Federal "Tier II" standards have achieved a 70 percent reduction in pollutants. This is the equivalent of taking seven out of 10 cars off the road. Unless there is a dramatic reduction of pollution from other sources, it is hard to imagine how Washington would fall out of attainment.

The critical difference between current California and the EPA standards is in the zero emission vehicle mandate. It is complex and wildly expensive. According to California's own estimates, the zero emissions mandate is up to 4,300 times more expensive than California's other regulations.

Carbon dioxide standards are fuel economy standards, and federal law prohibits states from regulating fuel economy. The manufacturers filed suit in federal court in December 2004. If it is not a fuel economy standard then where are the consumer benefits? Of the 45

technologies identified to meet the standards, 38 control fuel economy. Standards are so low that not even a hydrogen fuel cell vehicle could meet them.

New vehicle prices will increase by thousands. Pollution will increase because people will put off buying new cars.

Auto dealers agree that public health and air quality are critical goals. And, we must work to take advantage of significant advances in technologies, rather than seeking to retrofit old cars. But this will discourage the replacement of old dirty cars. It will reduce availability. It will frustrate the goal of air quality. Prices will go up. People will be less likely to buy. The new standards could limit choice in two ways: manufacturers will be limited in the number of larger vehicles they may deliver and the numbers that may be traded.

In Washington, 54 percent of vehicles purchased are trucks. This will be a problem. Under the new greenhouse standards, we will have to sell a greater number of high mile-per-gallon cars. As a result, fewer lower mile-per-gallon cars will be available.

We rely on the ability to trade cross-border to meet sales requirements. Transportation costs are less expensive from dealers in neighboring states. To get these new cars we may have to go to New England and pay very high transportation costs.

There is no demonstrated need to exceed federal standards. No state has implemented the greenhouse gas standard. A complete fiscal note is needed, the current one does not deal with the cost of new cars to local government. While under the standards are under litigation, it would be unwise to move forward. It has been suggested that it will be good for business, but businesses haven't been saying that.

The bill adopts Title 13 of the California Code of Regulations. The Legislature should consider adding all of Title 13 into the bill. Otherwise, it is misleading. The standards do include trucks which are 8,500 pounds. Farmers have more than combines, we also need trucks. The California law was not supposed to include commercial vehicles, yet it does.

For recreational vehicle dealers, a great deal of business is in fifth wheels. These require the towing ability of a large Sport Utility Vehicle. We are concerned that there won't be enough of these for our customers. From the wholesalers point of view, creating a Washington-only product will be problematic for moving inventories around. Program cars with low mileage would have to comply. For rental car companies that swap a fleet out every so many months, these price increases will be very expensive.

The 15 year/150,000 mile warranties are not good for repair shops. This is an anti-small business law which could put us out of business. All references to extended warranties should be deleted.

We do not have an air quality problem in Washington state. We are at least 20 percent below standards. There is only a 5 percent chance of going into non-attainment. Adopting California vehicle emissions standards will not change that probability. The climate change

report for the Puget Sound Clean Air Agency was not peer reviewed, it depended only on cherry-picked snowpack information, comparing extreme highs and lows for the time period.

**Persons Testifying:** (In support) Dan Clarkson, Prometheus Energy Company; Jean Godden, Seattle City Council; Matt Liden, Washington Public Interest Research Group; K.C. Golden, Climate Solutions; Chris Mann, Foothills Auto Group; Dr. John Brotten and Darlene Madenwald, American Lung Association of Washington; Dennis McLarren, Puget Sound Clean Air Agency; Stu Clark, Department of Ecology; Tom Cackette, California Air Resources Board; Cliff Traisman, Washington Conservation Voters; Bill Evans, City of Tacoma; Wayne Grotheer, Port of Seattle; Robert Pregulman and Kerry Gutknecht, Washington Public Interest Research Group; Doug MacDonald, Washington State Department of Transportation; Jim Dipeso, Republicans for Environmental Protection-America; Tanya Barnett, Earth Ministry; Tara Migliore; and Andrea Cuccaro.

(Opposed) Grant Nelson, Association of Washington Business; Toni McKinley, Washington State Grange; John Stuhlmiller, Washington Farm Bureau; Merle Pfeifer, Sparks Car Care; Nancee Wildermuth and Steve Douglas, Alliance of Automobile Manufacturers; Cody Benson, Recreational Vehicle Dealers Association; Scott Hazlegrove, Washington Auto Dealers Association; Rick Jensen, Dealers Auto Auction, Car and Truck Rental and Leasing Association; and Kay Jones.

**Persons Signed In To Testify But Not Testifying:** None.